

REMARKS

The application has been amended to more clearly define the present invention. New claims 54-65 are added to further capture subject matter the Applicants consider to be their invention. No new matter is added. Reconsideration is respectfully requested.

I. Claim Rejections - 35 U.S.C. §101

The Examiner rejected claims 43-53 under 35 U.S.C. §101 as being directed to non-statutory subject matter. However, Applicant respectfully asserts that claims 43-53 are clearly system claims. Claims 43 recites the following elements: "a prescription processing system," "a communication device," and "a pharmacy." These are clearly the system components of the claims "prescription processing network." The term "network" is used merely to define the interrelationship between the system components rather than specifically to define the claimed combination of elements as something other than a system.

As claims 43-53 are directed toward a system, which, as the Examiner correctly states, is statutory subject matter, withdrawal of these objections is respectfully requested.

II. Claim Rejections - 35 U.S.C. §103

The Examiner rejects claims 1-53 under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 5,758,095 (Albaum et al.) in view of U.S. Patent No. 5,883,370 (Walker et al.). Applicant respectfully traverses this rejection.

A. Claims 1-36

Claim 1 states in combination:

A method of processing prescription requests comprising the steps of:

establishing a connection to a remotely located prescription processing system;

submitting a prescription request to the prescription processing system;

preparing, by personnel capable of independently assessing correctness of the prescription request, a completed prescription form based on the submitted prescription request;

sending the completed prescription form to a filling pharmacy; and

filling the prescription request, at the filling pharmacy, based on the completed prescription form.

The Examiner asserts that Albaum discloses "signing onto a hospital pharmacy module or an outpatient/clinic module of an interactive medication ordering system...through a user interface over a communication network, wherein the user interface is used to communicated with an off-site location through the interactive medication ordering system," citing to Fig. 1 and 49a, col. 1, lines 5-13, col. 6, line 23, to col. 7, line 30, col. 16, lines 10-20, and col. 17, lines 40-60 of Albaum.

Without conceding that Albaum shows any of the elements of claim 1, Albaum does not disclose, for example, "establishing a connection to a remotely located prescription processing system," as recited by claim 1. (Emphasis added.) Albaum discloses an interactive medication ordering system in which "messages can be communicated within the system 10 configured with the outpatient/clinic module 170, from outpatient, clinic or retail pharmacies 174 or other off-site location 176." (Albaum, col. 16, lines 10-13.) The Examiner contends that this anticipates the "remotely located prescription processing system" recited in claim 1. However, Albaum merely discloses that the certain parts of the Albaum system are "off-site." It is not made clear in Albaum exactly from where these parts are remotely located. Further, it is not disclosed anywhere in Albaum that the interactive medication ordering system of Albaum is remotely

located from locations where a prescription originates. The fact that Albaum discloses a user interface (col. 7, lines 31-33) does not prove that the interactive medication ordering system is remotely located from the originating location of the prescription.

The Examiner asserts that Albaum discloses "automatically transmitting and printing in the pharmacy the written or typed order by a physician based on the interpreted and reformatted orders, wherein the physician is able to electronically countersign the patient's order and is alerted to potentially adverse situations such as drug reactions," citing to Fig. 1, col. 3, lines 15-20, col. 7, lines 25-40, col. 8, lines 43-63, col. 15, lines 12-32, col. 18, lines 1-6, and col. 20, line 40, to col. 21, line 45.

Albaum, however, also does not disclose, for example, "preparing, by personnel capable of independently assessing correctness of the prescription request, a completed prescription form based on the submitted prescription request, as recited by claim 1. (Emphasis added). Albaum discloses a prescription validation feature in which a physician can countersign for a prescription. (Albaum, col. 8, lines 12-31.) However, Albaum does not disclose, for example, a method by which personnel associated with the prescription processing system independently assess the correctness of the prescription request. Nor does Albaum disclose that the entity responsible for the independent assessment also completes a prescription form based on the prescription request submitted to the prescription processing system.

The Examiner asserts that "Walker includes printing out a prescription slip with a prescription bar code which contains pertinent prescription information to enable filling of the prescription, taking the prescription slip to a pharmacist by the patient, and having the pharmacist fill the prescription by

scanning the prescription bar code on the prescription slip to obtain the pertinent information," citing to Fig. 3, Fig. 6, and col.5, line 55, to col. 6, line 7 of Walker.

Without conceding that Walker shows any of the elements of claim 1, Walker does not disclose, for example, "preparing, by personnel capable of independently assessing correctness of the prescription request, a completed prescription form," as recited by claim 1. (Emphasis added.) Walker merely discloses "inputting drug selection into a computer" and "printing out a prescription slip with a prescription bar code which contains pertinent prescription information to enable filling of the prescription." (Walker, col. 5, lines 60-63.) Walker does not teach, for example, any method for independently checking the correctness of the prescription during the interim between submitting the prescription to the prescription processing system and sending the completed prescription form to the filling pharmacy.

As the combination of elements of claim 1 are not disclosed by Albaum in view of Walker when claim 1 is interpreted as a whole, Applicant respectfully requests that the Examiner withdraw the rejection with respect to claim 1 and its dependent claims 2-36, which incorporate all of the features of claim 1. Moreover, dependent claims 2-36 are independently patentable based on the combination of elements recited therein. An exemplary discussion follows.

With respect to dependent claim 3, Albaum fails to disclose, for example, "submitting a prescription request...by facsimile," as recited by claim 3. Albaum merely discloses using "a modem or fax unit [to]...process and transmit all complete prescription(s) to designated outpatient, clinic or retail pharmacies." (Albaum, col. 15, lines 30-32.) Albaum does not disclose, for example, submitting a prescription request to a prescription processing system using facsimile.

With respect to claim 4, Albaum fails to disclose, for example, "submitting a prescription request...by electronic mail," as recited by claim 3. Albaum merely discloses direct entry of a prescription request into the Albaum system, using a keyboard and mouse, pen, or voice entry. (Albaum, col. 3, lines 1-3.) As noted with respect to claim 3, Albaum does not disclose, for example, using facsimile and, therefore, it is irrelevant whether or not electronic mail is an obvious variant.

Furthermore, new claims 54 and 55 are added to more particularly claim the feature of submitting prescriptions to the prescription processing system telephonically and using computerized voice entry techniques, respectively. In combination with the features of claim 1, neither Albaum nor Walker disclosed the features of claims 54 or 55.

With respect to claim 7, the Examiner asserts that Albaum discloses "interpreting and reformatting the orders for processing," citing to col. 3, lines 15-20 of Albaum. Albaum, however, does not disclose, for example, "transcribing the captured prescription request," as recited in claim 7. Albaum merely discloses a system that "will accept medication orders or prescriptions entered in the computer in a random order entry format and then interpret and reformat the orders for processing." (Albaum, col. 3, lines 17-20.) Albaum does not disclose, for example, transcribing the captured prescription request "into, for example, a printable or file format or other format." (Application, p. 23, lines 9-10.)

Similarly, Albaum does not disclose, for example, "preparing...a completed prescription form...based, at least partially, on a content of the transcribed prescription request," as recited in claim 8. As discussed with respect to claim 1, Albaum, either alone or taken together with Walker, does not disclose, for example, "preparing...a completed prescription form." Furthermore, as discussed with respect to claim 7, Albaum

does not disclose, for example, a "transcribed prescription request."

With respect to claim 9, the Examiner asserts that Albaum discloses "performing an order recognition function by an order reformatter and interpreter to check for recognition of the doses, route of administration, frequency, and duration, wherein the order information received by the order reformatter and interpreter when entered by the user is entered in random sequence and then processed, wherein the inpatient module performs processing functions and is connected to the user interface which accepts input via keyboard and mouse, voice recognition, or pen interface," citing to Figs. 49e and 49f, col. 7, lines 25-30, col. 11, lines 4-13, and col. 20, line 40, to col. 21, line 33 of Albaum.

Albaum, however, does not disclose, for example, "converting the captured prescription request to a digitized format to obtain a digitized prescription request" or "storing the digitized prescription request on a database maintained by the prescription processing system," as recited in claim 9. As discussed with respect to claim 3, Albaum merely discloses direct entry of a prescription request into the Albaum system using computer-assisted means. As stated in the application, "[i]n the event the data communicated is already in digital format, no conversion is necessary." (Application, p. 29, lines 17-18.) Therefore, since the only methods disclosed in Albaum for submitting a prescription request are already in digital format, there is no "converting" disclosed in Albaum.

With respect to claim 18, the Examiner asserts that Albaum discloses a method for renewing a prescription "wherein the user selects the highlighted renew word and then the highlighted medication order from the current scheduled and/or PRN medication boxes, or the user can pronounce the renew command and then the

number of the medication being renewed," citing to col. 9, lines 10-30, and col. 18, lines 24-35 of Albaum.

Albaum, however, does not disclose, for example, "determining if there is an existing prescription number for renewal; and requesting the existing prescription number if it is available," as recited in claim 18. Albaum merely discloses that "[o]rders requiring renewal are noted by the highlighted "renew" 60 and 69 (see Fig. 9 and 10) in the heading along with highlighted orders in the current scheduled and PRN medication lists. To renew an order...the user can pronounce the renew command and then the number of the medication being renewed." (Albaum, col. 9, lines 12-20.) The "number" referred to regards the number of the medication in the list, as seen in Fig. 9 of Albaum. The medication number recited in claim 18, however, refers to an actual prescription number for the prescription itself, for example, the twelve digit identification number printed on the prescription form. The "prescription number" does not simply refer to the number of the prescription within a list, as in Albaum.

With respect to claim 25, Albaum does not disclose, for example, the step of "repeating the steps of submitting, preparing, sending, and filling," as discussed with respect to claim 1.

With respect to claim 27, the Examiner asserts that Albaum discloses a method "wherein a patient profile screen for physicians is presented after signing in...transmitting by fax all complete prescription orders, wherein upon the pharmacy receiving the order by fax, the pharmacy is able to verify authorization for orders," citing to Figs. 2 and 3, col. 6, line 23, to col. 8, line 30, col. 15, lines 12-48, and col. 17, lines 40-60 of Albaum.

Albaum, however, does not disclose, for example, "submitting the pre-populated form to the user via facsimile," as recited by claim 27. Albaum discloses providing a patient profile screen to physicians, however, Albaum does not disclose, for example, faxing a pre-populated form to a user, for example, a physician.

Furthermore, Albaum does not disclose, for example, "assigning the pre-populated form a unique identifier which associates the form with the prescription request," as further recited by claim 27. The Examiner asserts that "Albaum's entering of information in a database through a user interface is considered to be a form of associated 'the form' with a 'prescription request.'" As discussed above, Albaum does not disclose, for example, the "form" of claim 27 and, therefore, there is nothing in Albaum that discloses "a unique identifier which associates the form with the prescription request."

With respect to claim 28, the Examiner asserts that "Albaum discloses that upon the pharmacy receiving the order via fax, the pharmacy is able to verify authorization for orders," citing to col. 15, lines 32-48 of Albaum. Albaum, however, does not disclose, for example, "comparing the physician's phone number and the prescription number associated with the prescription processing system," as recited in claim 28 as amended. Fig. 6A of the application and the related description (p. 40, lines 3-23), disclose receiving the physician's phone number and comparing it to phone numbers stored in a database of the prescription processing system and receiving the prescription number and comparing it to prescription numbers stored in the database. Albaum does not disclose, for example, receiving a physician's phone number and/or a prescription number and comparing either to information stored in a database before filing a prescription request.

With respect to claim 29, the Examiner asserts that "Albaum discloses a telephone for communicating with the interactive

medication ordering system," citing to Fig. 1 and col. 8, line 64, to col. 9, line 10 of Albaum. Albaum, however, does not disclose, for example, "a method of processing prescription requests...wherein the step of establishing [a connection to a remotely located prescription processing system] includes a step of establishing the connection using a telephone," as recited in claim 29.

Albaum merely discloses that "[n]on-physicians are not allowed to prescribe or order medications unless taking verbal or telephone orders from physicians." Albaum does not disclose that either physicians or non-physicians may use a telephone to interact with the system of Albaum. Rather, Albaum discloses that a "physician must countersign verbal telephone orders within 24 hours in the countersign/renew box 60, in Fig. 9...The physician may use the pen or mouse to select the highlighted name at the end of the order so that order is immediately filed with that physicians electronic signature..." (Albaum, col. 8, line 67, to col. 9, line 9.) Albaum discloses that a physician countersigning a verbal order to a non-physician may countersign the order using computer-assisted means. There is no telephone interaction between any user and the ordering system of Albaum.

As the combination of elements of claims 1-36 are not disclosed in Albaum in view of Walker, Applicant respectfully requests that the Examiner withdraw the rejection with respect to claims 1-36.

B. Claim 37

Claim 37 states in combination:

A method of processing prescription requests comprising the steps of:

establishing a connection to a remotely located prescription processing system;

submitting a prescription request to the prescription processing system;

capturing the prescription request for subsequent manipulation;

processing the captured prescription request;

preparing, by at least one of a pharmacist and personnel capable of independently assessing correctness of the prescription request, a completed prescription form based, at least partially, on the processed prescription request;

sending the completed prescription form to a predetermined pharmacy; and

filling the prescription request, at the predetermined pharmacy, based on the completed prescription form.

Albaum in view of Walker does not disclose all of the elements of claim 37. As discussed with respect to claim 1, Albaum does not disclose "establishing a connection to a remotely located prescription processing system," as recited by claim 37. (Emphasis added.) Without conceding that Albaum shows any of the elements of claim 37, Albaum merely discloses that certain parts of the Albaum system, such as, "outpatient, clinic or retail pharmacies 174 or other off-site location 176" are off-site, without disclosing that the interactive medication ordering system of Albaum is remotely located from locations where a prescription originates.

Furthermore, as discussed with respect to claim 1, Albaum does not disclose, for example, "preparing, by at least one of a pharmacist and personnel capable of independently assessing correctness of the prescription request, a completed prescription form based, at least partially, on the processed prescription request," as recited by claim 37. Albaum does not disclose a method by which a pharmacist and/or personnel associated with the prescription processing system independently assess the correctness of the prescription request. Not does Albaum disclose that the entity responsible for the independent

assessment also completes a prescription form based on the prescription request submitted to the prescription processing system.

Additionally, as discussed with respect to claim 1, Albaum in view of Walker does not disclose, for example, "preparing, by at least one of a pharmacist and personnel capable of independently assessing correctness of the prescription request, a completed prescription form," as recited by claim 37. (Emphasis added.) Walker does not teach any method for independently checking the correctness of the prescription during the interim between submitting the prescription to the prescription processing system and sending the completed prescription form to the filling pharmacy.

As the combination of elements of claim 37 are not disclosed by Albaum in view of Walker, Applicant respectfully requests that the Examiner withdraw the rejection with respect to claim 37.

C. Claim 38

Claim 38 states in combination:

A method of processing prescription requests comprising the steps of:

establishing a connection to a remotely located prescription processing system;

submitting a prescription request to the prescription processing system;

capturing the prescription request;

converting the captured prescription request to a digitized format to obtain a digitized prescription request;

creating an identification file, including identification data, for the digitized prescription request;

associating the identification file and the digitized prescription request to form a prescription file;

storing the prescription file on a database maintained by the prescription processing system;

transcribing the digitized prescription request;

preparing, by at least one of a pharmacist and personnel capable of independently assessing correctness of the prescription request, a completed prescription form based, at least partially, on the transcribed prescription request;

sending the completed prescription form to a filling pharmacy; and

filling the prescription request, at the filling pharmacy, based on the completed prescription form.

Albaum in view of Walker does not disclose, for example, all of the elements of claim 38. As discussed with respect to claim 1, Albaum does not disclose, for example, "establishing a connection to a remotely located prescription processing system," as recited by claim 38. (Emphasis added.) Albaum merely discloses that certain parts of the Albaum system, such as, "outpatient, clinic or retail pharmacies 174 or other off-site location 176" are off-site, without disclosing that the interactive medication ordering system of Albaum is remotely located from locations where a prescription originates.

Furthermore, as discussed with respect to claim 1, Albaum does not disclose, for example, "preparing, by at least one of a pharmacist and personnel capable of independently assessing correctness of the prescription request, a completed prescription form based, at least partially, on the transcribed prescription request," as recited by claim 38. Albaum does not disclose a method by which a pharmacist and/or personnel associated with the prescription processing system independently assess the correctness of the prescription request. Nor does Albaum disclose that the entity responsible for the independent

assessment also completes a prescription form based on the prescription request submitted to the prescription processing system.

Additionally, as discussed with respect to claim 1, Albaum in view of Walker does not disclose, for example, "preparing, by at least one of a pharmacist and personnel capable of independently assessing correctness of the prescription request, a completed prescription form," as recited by claim 38. (Emphasis added.) Walker does not teach any method for independently checking the correctness of the prescription during the interim between submitting the prescription to the prescription processing system and sending the completed prescription form to the filling pharmacy.

Furthermore, as discussed with respect to claim 7, Albaum does not disclose, for example, "transcribing the digitized prescription request," as recited in claim 38. Albaum merely discloses a system that "will accept medication orders or prescriptions entered in the computer in a random order entry format and then interpret and reformat the orders for processing." (Albaum, col. 3, lines 17-20.) Albaum does not disclose transcribing the captured prescription request "into, for example, a printable or file format or other format." (Application, p. 23, lines 9-10.)

Moreover, as discussed with respect to claim 9, Albaum does not disclose "converting the captured prescription request to a digitized format to obtain a digitized prescription request" or "storing the digitized prescription request on a database maintained by the prescription processing system," as recited in claim 38. Since the only methods disclosed in Albaum for submitting a prescription request are already in digital format, there is no "converting" disclosed in Albaum.

As the combination of elements of claim 38 are not disclosed by Albaum in view of Walker, Applicant respectfully requests that the Examiner withdraw the rejection with respect to claim 38.

D. Claim 39

Claim 39 states in combination:

A method of processing prescription requests comprising the steps of:

establishing a connection to a remotely located prescription processing system;

submitting a prescription request to the prescription processing system;

capturing the prescription request;

transcribing the digitized prescription request;

preparing, by at least one of a pharmacist and personnel capable of independently assessing correctness of the prescription request, a completed prescription form based, at least partially, on the transcribed prescription request;

sending the completed prescription form to a predetermined pharmacy; and

filling the prescription request, at the predetermined pharmacy, based on the completed prescription form;

determining if the user would like to submit a new prescription request;

repeating the steps of submitting, capturing, transcribing, preparing, sending, filling, and determining if the user would like to submit a new prescription request; and

terminating the connection if the user would not like to submit a new prescription request.

Albaum in view of Walker does not disclose all of the elements of claim 39. As discussed with respect to claim 1, Albaum does not disclose, for example, "establishing a connection

to a remotely located prescription processing system," as recited by claim 39. (Emphasis added.) Albaum merely discloses that certain parts of the Albaum system, such as, "outpatient, clinic or retail pharmacies 174 or other off-site location 176" are off-site, without disclosing that the interactive medication ordering system of Albaum is remotely located from locations where a prescription originates.

Furthermore, as discussed with respect to claim 1, Albaum does not disclose, for example, "preparing, by at least one of a pharmacist and personnel capable of independently assessing correctness of the prescription request, a completed prescription form based, at least partially, on the transcribed prescription request," as recited by claim 39. Albaum does not disclose a method by which a pharmacist and/or personnel associated with the prescription processing system independently assess the correctness of the prescription request. Nor does Albaum disclose that the entity responsible for the independent assessment also completes a prescription form based on the prescription request submitted to the prescription processing system.

Additionally, as discussed with respect to claim 1, Albaum in view of Walker does not disclose "preparing, by at least one of a pharmacist and personnel capable of independently assessing correctness of the prescription request, a completed prescription form," as recited by claim 39. (Emphasis added.) Walker does not teach any method for independently checking the correctness of the prescription during the interim between submitting the prescription to the prescription processing system and sending the completed prescription form to the filling pharmacy.

Furthermore, as discussed with respect to claim 7, Albaum does not disclose, for example, "transcribing the captured prescription request," as recited in claim 39. Albaum merely discloses a system that "will accept medication orders or

prescriptions entered in the computer in a random order entry format and then interpret and reformat the orders for processing." (Albaum, col. 3, lines 17-20.) Albaum does not disclose transcribing the captured prescription request "into, for example, a printable or file format or other format." (Application, p. 23, lines 9-10.)

Additionally, Albaum does not disclose, for example, the step of "terminating the connection if the user would not like to submit a new prescription request," as recited in claim 39. The Examiner asserts that Albaum discloses "closing the ordering screen and beginning order processing if the user has completed the orders," citing to Fig. 29 and col. 13, lines 44-54 of Albaum. However, Albaum merely discloses closing the ordering screen. Albaum does not disclose terminating the connection to the Albaum system if the user would not like to submit a new prescription request. The application specifically claims ending the processes of the prescription ordering system if the user decides not to submit a new prescription request. (Application, p. 33, lines 18-20.)

As the combination of elements of claim 39 are not disclosed by Albaum in view of Walker, Applicant respectfully requests that the Examiner withdraw the rejection with respect to claim 39.

E. Claim 40

Claim 40 states in combination:

A method of processing prescription requests comprising the steps of:

establishing a connection to a remotely located prescription processing system;

submitting a prescription request to the prescription processing system, wherein the prescription request includes user information and a member ID number;

capturing the prescription request;

converting the captured prescription request to a digitized format to obtain a digitized prescription request;

creating an identification file, including identification data, for the digitized prescription request;

associating the identification file and the digitized prescription request to form a prescription file;

storing the prescription file on a database maintained by the prescription processing system;

transcribing the digitized prescription request;

preparing, by at least one of a pharmacist and personnel capable of independently assessing correctness of the prescription request, a completed prescription form based, at least partially, on the transcribed digitized prescription request;

sending the completed prescription form to a central pharmacy; and

filling the prescription request, at the central pharmacy, based on the completed prescription form.

Albaum in view of Walker does not disclose all of the elements of claim 40. As discussed with respect to claim 1, Albaum does not disclose, for example, "establishing a connection to a remotely located prescription processing system," as recited by claim 40. (Emphasis added.) Albaum merely discloses that certain parts of the Albaum system, such as, "outpatient, clinic or retail pharmacies 174 or other off-site location 176" are off-site, without disclosing that the interactive medication ordering system of Albaum is remotely located from locations where a prescription originates.

Furthermore, as discussed with respect to claim 1, Albaum does not disclose, for example, "preparing, by at least one of a

pharmacist and personnel capable of independently assessing correctness of the prescription request, a completed prescription form based, at least partially, on the transcribed digitized prescription request," as recited by claim 40. Albaum does not disclose a method by which a pharmacist and/or personnel associated with the prescription processing system independently assess the correctness of the prescription request. Nor does Albaum disclose that the entity responsible for the independent assessment also completes a prescription form based on the prescription request submitted to the prescription processing system.

Additionally, as discussed with respect to claim 1, Albaum in view of Walker does not disclose, for example, "preparing, by at least one of a pharmacist and personnel capable of independently assessing correctness of the prescription request, a completed prescription form," as recited by claim 40. (Emphasis added.) Walker does not teach any method for independently checking the correctness of the prescription during the interim between submitting the prescription to the prescription processing system and sending the completed prescription form to the filling pharmacy.

Furthermore, as discussed with respect to claim 7, Albaum does not disclose, for example, "transcribing the digitized prescription request," as recited in claim 40. Albaum merely discloses a system that "will accept medication orders or prescriptions entered in the computer in a random order entry format and then interpret and reformat the orders for processing." (Albaum, col. 3, lines 17-20.) Albaum does not disclose transcribing the captured prescription request "into, for example, a printable or file format or other format." (Application, p. 23, lines 9-10.)

Moreover, as discussed with respect to claim 9, Albaum does not disclose "converting the captured prescription request to a

digitized format to obtain a digitized prescription request" or "storing the digitized prescription request on a database maintained by the prescription processing system," as recited in claim 40. Since the only methods disclosed in Albaum for submitting a prescription request are already in digital format, there is no "converting" disclosed in Albaum.

As the combination of elements of claim 40 are not disclosed by Albaum in view of Walker, Applicant respectfully requests that the Examiner withdraw the rejection with respect to claim 40.

F. Claim 41

Claim 41 states in combination:

A method of submitting a prescription request for retrieval of a filled prescription by a patient, the method comprising the steps of:

initiating a connection to a remotely located prescription processing system;

submitting an audible prescription request to the prescription processing system; and

retrieving, by the patient, a filled prescription from a predetermined filling pharmacy remotely located from the prescription processing system.

Albaum in view of Walker does not disclose all of the elements of claim 41. As discussed with respect to claim 1, Albaum does not disclose, for example, "initiating a connection to a remotely located prescription processing system," as recited by claim 41. (Emphasis added.) Albaum merely discloses that certain parts of the Albaum system, such as, "outpatient, clinic or retail pharmacies 174 or other off-site location 176" are off-site, without disclosing that the interactive medication ordering system of Albaum is remotely located from locations from where the prescription is being initiated.

As the combination of elements of claim 41 are not disclosed by Albaum in view of Walker, Applicant respectfully requests that the Examiner withdraw the rejection with respect to claim 41.

G. Claim 42

Claim 42 states in combination:

A method of processing a submitted prescription request, comprising the steps of:

receiving a request from a remote source to establish a connection with a local prescription processing system;

establishing a connection with the remote source;

receiving an audible prescription request;

preparing, by a pharmacist, a completed prescription form based, at least partially, on the audible prescription request; and

sending the completed prescription form to a pharmacy to be filled.

Albaum in view of Walker does not disclose all of the elements of claim 42. As discussed with respect to claim 1, Albaum does not disclose, for example, "receiving a request from a remote source to establish a connection with a local prescription processing system," as recited by claim 42. (Emphasis added.) Albaum merely discloses that certain parts of the Albaum system, such as, "outpatient, clinic or retail pharmacies 174 or other off-site location 176" are off-site, without disclosing that the interactive medication ordering system of Albaum is remotely located from locations from where the prescription is being initiated.

Furthermore, as discussed with respect to claim 1, Albaum does not disclose, for example, "preparing, by a pharmacist, a completed prescription form based, at least partially, on the

audible prescription request," as recited by claim 42. Albaum does not disclose that a pharmacist associated with the prescription processing system completes a prescription form based on the prescription request received at the prescription processing system.

As the combination of elements of claim 42 are not disclosed by Albaum in view of Walker, Applicant respectfully requests that the Examiner withdraw the rejection with respect to claim 42.

H. Claims 43-53

Claim 43 states in combination:

A prescription processing network,
comprising:

a prescription processing system;

a communication device for establishing
a communication channel with said
prescription processing system and submitting
a prescription request over said
communication channel, said communication
device being remotely located from said
prescription processing system;

said prescription processing system
being accessible by one of a pharmacist and
personnel capable of independently assessing
correctness of the prescription request for
preparing a completed prescription form
based, at least in part, on the submitted
prescription request; and

a pharmacy for receiving said completed
prescription form, and filling said
prescription request based on the completed
prescription form.

Albaum in view of Walker does not disclose all of the elements of claim 43. As discussed with respect to claim 1, Albaum does not disclose, for example, "a communication device...said communication device being remotely located from said prescription processing system," as recited by claim 43.

(Emphasis added.) Albaum merely discloses that certain parts of the Albaum system, such as, "outpatient, clinic or retail pharmacies 174 or other off-site location 176" are off-site, without disclosing that the interactive medication ordering system of Albaum is remotely located from locations where a prescription originates.

Furthermore, as discussed with respect to claim 1, Albaum does not disclose, for example, "a prescription processing system...said prescription processing system being accessible by at least one of a pharmacist and personnel capable of independently assessing correctness of the prescription request for preparing a completed prescription form based, at least in part, on the submitted prescription request," as recited by claim 43. Albaum does not disclose a prescription processing system wherein a pharmacist and/or personnel associated with the prescription processing system independently assess the correctness of the prescription request. Nor does Albaum disclose that the entity responsible for the independent assessment also completes a prescription form based on the prescription request submitted to the prescription processing system.

Additionally, as discussed with respect to claim 1, Albaum in view of Walker does not disclose, for example, "a prescription processing system...said prescription processing system being accessible by at least one of a pharmacist and personnel capable of independently assessing correctness of the prescription request," as recited by claim 43. (Emphasis added.) Walker does not teach any method for independently checking the correctness of the prescription during the interim between submitting the prescription to the prescription processing system and sending the completed prescription form to the filling pharmacy.

As the combination of elements of claim 43 are not disclosed by Albaum in view of Walker, Applicant respectfully requests that

the Examiner withdraw the rejection with respect to claim 43 and its dependent claims 44-53, which incorporate all of the features of claim 43. Moreover, dependent claims 44-53 are independently patentable based on the combination of elements recited therein. An exemplary discussion follows.

With respect to claim 46, the Examiner asserts that "Albaum discloses performing an order recognition function by an order reformatter and interpreter to check for recognition of the doses, route of administration, frequency, and duration, wherein the order information received by the order reformatter and interpreter when entered by the user is entered in random sequence and then processed, wherein the inpatient module performs processing functions and is connected to the user interface which accepts input via keyboard and mouse, voice recognition, or pen interface," citing to Fig. 49e, Fig. 49f, col. 7, lines 25-30, col. 11, lines 4-13, and col. 20, line 20, to col. 21, line 33 of Albaum.

Albaum, however, does not disclose, for example, "a header entry agent for retrieving predetermined information from said submitted prescription request and transcribing said predetermined information," as recited in claim 46. The application discloses a header entry agent, which can be in the form of a person or an intelligent software program, that can access the digitized prescription request stored in the database, and transcribe information contained in the digitized prescription request is into, for example, a printable or file format or other format. (Application, p. 23, lines 7-15.)

With respect to claims 47-48, the Examiner admits that Albaum and Walker are entirely silent as to the communication channel being established over a private network (claim 47) or public network (claim 48), specifically the Internet (claim 49). However, the Examiner asserts that "Walker includes communicating over a communications network, wherein a modem unit will process

and transmit all complete prescriptions to designated outpatient, clinic, or retail pharmacies," citing to Fig. 1, col. 2, line 65, to col. 3, line 50, col. 6, line 23, to col. 7, line 23, and col. 15, lines 12-48 of Albaum. (Although the Examiner refers to Walker, the citations are directed to Albaum.)

Neither Albaum nor Walker, however, discloses "a communication device for establishing a communication channel with said prescription processing system and submitting a prescription request over said communication channel," where the communication channel is a private network, a public network, or specifically, the Internet, as recited in claims 47-49, respectively. As the Examiner states, Albaum merely discloses using a modem unit to process and transmit completed prescriptions to outpatient, clinic, or retail pharmacies. Albaum and Walker do not disclose a communication channel between the source of a prescription and a prescription processing system.

As discussed with respect to claim 29, Albaum does not disclose, for example, "a prescription processing network...wherein said communication device is a telephone," as recited in claim 51. Albaum does not disclose that either physicians or non-physicians may use a telephone to interact with the system of Albaum.

With respect to claim 52, the Examiner asserts that "Albaum discloses communicating with the interactive medication ordering system and pharmacy using facsimile," citing to Fig. 1 and col. col. 15, lines 11-32 of Albaum. Albaum, however, does not disclose, for example, "a prescription processing network...wherein said communication device is a facsimile device," as recited in claim 52.

Albaum merely discloses that "[a] modem or fax unit will process and transmit all complete prescription(s) to designated

outpatient, clinic or retail pharmacies." (Albaum, col. 15, lines 30-32.) Albaum does not disclose that a facsimile device can be used to establish a communication channel between the source of a prescription and the prescription processing system.

With respect to claim 43, Albaum does not disclose "a prescription processing network...wherein said pharmacist and said pharmacy are remotely located from each other," as recited in claim 53. Albaum does not disclose a pharmacist that is located remotely from a pharmacy for implementing certain aspects of the medication ordering system.

As the combination of elements of claims 43-53 are not disclosed in Albaum in view of Walker, Applicant respectfully requests that the Examiner withdraw the rejection with respect to claims 43-53.

CONCLUSION

Applicant respectfully submits that, as described above, the cited prior art does not show or suggest the combination of features recited in the claims. Applicant does not concede that the cited prior art shows any of the elements recited in the claims. However, Applicant has provided specific examples of elements in the claims that are clearly not present in the cited prior art.

Applicant strongly emphasizes that one reviewing the prosecution history should not interpret any of the examples Applicant has described herein in connection with distinguishing over the prior art as limiting to those specific features in isolation. Rather, Applicant asserts that it is the combination of elements recited in each of the claims, when each claim is interpreted as a whole, which is patentable. Applicant has emphasized certain features in the claims as clearly not present in the cited references, as discussed above. However, Applicant does not concede that other features in the claims are found in the prior art. Rather, for the sake of simplicity, Applicant is providing examples of why the claims described above are distinguishable over the cited prior art.

Applicant wishes to clarify for the record, if necessary, that the claims have been amended to expedite prosecution. Moreover, Applicant reserves the right to pursue the original subject matter recited in the present claims in a continuation application.

Any narrowing amendments made to the claims in the present Amendment are not to be construed as a surrender of any subject matter between the original claims and the present claims; rather merely Applicant's best attempt at providing one or more definitions of what the Applicant believes to be suitable patent protection. In addition, the present claims provide the intended

scope of protection that Applicant is seeking for this application. Therefore, no estoppel should be presumed, and Applicant's claims are intended to include a scope of protection under the Doctrine of Equivalents.

For all the reasons advanced above, Applicant respectfully submits that the rejections have been overcome and should be withdrawn.

For all the reasons advanced above, Applicant respectfully submits that the Application is in condition for allowance, and that such action is earnestly solicited.

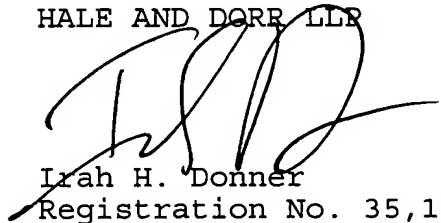
AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees, which may be required for this Amendment, or credit any overpayment to deposit account no. 08-0219.

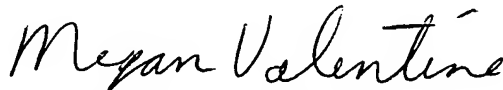
In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to deposit account no. 08-0219.

Respectfully Submitted,

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